

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference HA 3804-02WO		FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/001324	International filing date (day/month/year) 12.02.2004	Priority date (day/month/year) 12.02.2003	
International Patent Classification (IPC) or national classification and IPC E03F 5/06			
Applicant HYDROTEC Technologies GMBH & CO. KG			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 6 sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☒ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001324

Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-15 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* 1-22 _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/7-7/7 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____
4. ☒ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☒ the claims, nos. 1 _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001324

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-22	YES
	Claims		NO
Inventive step (IS)	Claims	1-22	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-22	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

Reference is made to the following document:

D1: WO-A-02 09 675.

1 PCT ARTICLE 19

1.1 Claim 1 does not meet the requirements of PCT Article 19(2) since the deletion of the expression "[second detent element] *integral with* [the lid]" introduces substantive matter which goes beyond the disclosure in the international application as filed. The description indicates only that the second detent element is integrally connected to the lid. To address the lack of clarity resulting from the inconsistency between the detent element integral with the lid and the projection which is merely anchored to the lid in a rigid manner and supports the detent element, the projection should have been claimed as being moulded on the lid (see the description, page 3, line 23).

1.2 The present report is therefore based on the assumption that the second detent element is

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

claimed as "integral with the lid" (see the original version of the claim).

2 INDEPENDENT CLAIM 1

2.1 WO-A-02 09 675 is considered the prior art closest to the subject matter of claim 1. It discloses (the reference signs and references relate to D1):

a drainage device for surface drainage, comprising a base part 10, a lid 20 covering an opening in the base part 10, and at least one detent locking device 30, 13 for locking the lid 20 to the base part 10 in a detent-like manner, wherein the locking device comprises at least one first detent element 17 at the base part 10 and at least one second detent element 34 which can directly engage the first detent element 17 and is configured on the lid 20, wherein at least one projection 22 extending towards the base of the base part 10 is substantially rigidly anchored to the lid 20 and the second detent element 34 is disposed on a section of the projection 22 which is at a distance from the lid 20.

2.2 The subject matter of claim 1 therefore differs from the known drainage device in that

- a) the second detent element is integral with the lid (see figure 1);
- b) the section of the projection situated at a distance from the lid is wider than the remainder of the projection.

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 2.3 The subject matter of claim 1 is therefore novel (PCT Article 33(2)).
- 2.4 The problem to be solved by the present invention is therefore understood to provide a drainage device which consists of fewer components and is therefore easier to assemble (see the description, page 3, line 4).
- 2.5 The solution to this problem, as proposed in claim 1 of the present application, involves an inventive step (PCT Article 33(3)), for the following reasons:

Document D1 offers nothing to suggest to a person skilled in the art:

- a) to produce the fastening element used therein integrally with the lid since this makes the element more difficult to produce and no longer makes it possible to opt for different materials for the lid and the fastening element; and
- b) to make the ends of the fastening element, which ensure that the element is fastened to the basic part, wider than the middle part of the fastening element, which is secured to the lid.

If this feature were applied to the fastening element according to document D1, the fastening element would become visible from the outside. This, however, is undesirable as the aim is to offer protection against vandalism. Consequently,

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001324

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
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a person skilled in the art would not modify the known fastening element in the claimed manner.

3 DEPENDENT CLAIMS

3.1 Claims 2-22 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

4. All the claims can be considered industrially applicable (PCT Article 33(4)).